

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

DARRELL J. HARPER, #1957729	§	
VS.	§	CIVIL ACTION NO. 6:16cv1325
DIRECTOR, TDCJ-CID	§	

ORDER OF DISMISSAL

Petitioner Darrell J. Harper, an inmate confined at the Ellis Unit of the Texas prison system, proceeding *pro se*, filed the above-styled and numbered petition for a writ of habeas corpus challenging his Travis County convictions. The petition was referred to United States Magistrate Judge K. Nicole Mitchell, who issued a Report and Recommendation concluding that the lawsuit should be dismissed pursuant to sanctions imposed by the United States Court of Appeals for the Fifth Circuit. Mr. Harper has filed objections.

Mr. Harper's objections consist of nothing more than another petition for a writ of habeas corpus form with the word "OBJECTION" written on the first page. This court is obligated to comply with the orders issued by the Fifth Circuit. Magistrate Judge Mitchell appropriately concluded that the lawsuit should be dismissed in accordance with the sanctions. The court may not consider Mr. Harper's petition due to the sanctions imposed by the Fifth Circuit. Moreover, in the absence of sanctions, venue would not be proper in this court since Mr. Harper's convictions occurred in the Western District of Texas, and he is confined in the Southern District of Texas. Venue is proper only in one of those two districts. 28 U.S.C. § 2241(d). Nonetheless, the

petition should not be transferred to one of those courts because of the sanctions imposed against Mr. Harper by the Fifth Circuit.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by Mr. Harper to the Report, the court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and Mr. Harper's objections are without merit. It is therefore

ORDERED that the cause of action is **DISMISSED** without prejudice as barred by the sanctions imposed by the Fifth Circuit. All motions not previously ruled on are **DENIED**.

So **ORDERED** and **SIGNED** this **13** day of **December, 2016**.

A handwritten signature in black ink, appearing to read "Ron Clark", is written above a horizontal line.

Ron Clark, United States District Judge